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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
LEHMAN BROTHERS HOLDINGS INC., <i>et al</i>	:	Case No. 08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
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**CF MIDAS BALANCED GROWTH FUND'S DESIGNATION OF RECORD
AND STATEMENT OF ISSUES ON APPEAL**

CF Midas Balanced Growth Fund (the “**CF Fund**”), by and through its undersigned counsel, pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, files this Designation of Record and Statement of Issues on Appeal with respect to its appeal from the *Third Supplemental Order Granting Debtors' One Hundred Forty-Third Omnibus Objection to Claims (Late-Filed Claims)* (Docket No. 34696) entered in the above-captioned cases on February 15, 2013, by the United States Bankruptcy Court for the Southern District of New York (Hon. James M. Peck).

For items designated, the designation includes all documents referenced with the particular docket number, including, without limitation, all statements, appendices, exhibits, attachments, notices, declarations, and affidavits related thereto.

DESIGNATION OF RECORD

Index No.	Filing Date	Docket No.	Description
1	7/2/2009	4271	Order Establishing the Deadline for Filing Proofs of Claim, Approving the Form and Manner of Notice Thereof and Approving the Proof of Claim Form
2	6/29/2010	9930	Affidavit of Publication of Notice of Deadlines for Filing Proofs of Claims filed by Lehman Brothers Holdings Inc. (“ <u>LBHI</u> ”)
3	11/8/2010	n/a	Proof of Claim #67193 filed by the CF Fund (the “ <u>Claim</u> ”)
4	4/27/2011	16294	Motion Pursuant to Sections 105(a) and 502(b) of the Bankruptcy Code and Bankruptcy Rule 9019 for Approval of Procedures for Determining the Allowed Amount of Claims filed Based on Structured Securities Issued or Guaranteed by LBHI filed by LBHI (the “ <u>Claim Procedures Motion</u> ”)
5	5/16/2011	17710	Debtors One Hundred Forty-Third Omnibus Objection to Claims (Late-Filed Claims) filed by LBHI, with hearing to be held on 6/30/2011 (the “ <u>Claim Objection</u> ”)
6	6/21/2011	17945	Notice of Adjournment of Hearing of the Claim Objection Solely as to Certain Claims filed by LBHI, with hearing to be held on 7/21/2011
7	7/7/2011	18348	Response of the CF Fund to the Claim Objection
8	7/7/2011	18348-1	Declaration of Nigel Boyling in Support of Response of the CF Fund to the Claim Objection
9	7/18/2011	18617	Notice of Adjournment of Hearing on the Claim Objection Solely as to Certain Claims filed by LBHI, with hearing to be held on 9/28/2011
10	8/10/2011	19120	Order Approving Procedures for Determining the Allowed Amount of Claims Filed Based on Structured Securities Issued or Guaranteed by LBHI (Related Doc # [16294]) (the “ <u>Claim Procedures Order</u> ”)
11	8/24/2011	21186	Notice of Proposed Allowed Claim Amount to the CF Fund from LBHI (attached as Exhibit A to Doc# [21186]) (the “ <u>Claim Notice</u> ”)

Index No.	Filing Date	Docket No.	Description
12	9/29/2011	20390	Notice of Adjournment of Hearing of the Claim Objection Solely as to Certain Claims filed by LBHI, with hearing to be held on 12/21/2011
13	10/24/2011	21186	Supplemental Response of the CF Fund to the Claim Objection
14	11/29/2011	22737	Modified Third Amended Joint Chapter 11 Plan of LBHI and its Affiliated Debtors (the " <u>Plan</u> ")
15	12/6/2011	23023	Order Confirming the Plan
16	12/14/2011	23392	Notice of Adjournment of the Claim Objection filed by LBHI, with hearing to be held on 1/26/2012
17	1/13/2012	24275	Notice of Adjournment of the Claim Objection filed by LBHI, with hearing to be held on 2/22/2012
18	2/16/2012	25473	Notice of Adjournment of the Claim Objection Solely as to Certain Claims filed by LBHI, with hearing to be held on 3/22/2012
19	3/14/2012	26430	Notice of Adjournment of the Claim Objection Solely as to Certain Claims filed by LBHI, with hearing to be held on 4/26/2012
20	4/19/2012	27509	Notice of Adjournment of Hearing sine die of the Claim Objection filed by LBHI, with hearing to be held on a date to be determined
21	12/17/2012	32854	Omnibus Reply to Certain Responses to the Claim Objection filed by LBHI
22	12/17/2012	32895	Notice of Hearing on the Claim Objection filed by LBHI, with hearing to be held on 12/19/2012
23	12/21/2012	33328	Transcript regarding Hearing Held on 12/19/2012
24	1/21/2013	34056	Second Supplemental Response to the Claim Objection filed by the CF Fund
25	1/28/2013	34230	Reply to the CF Fund's Second Supplemental Response to the Claim Objection filed by LBHI

Index No.	Filing Date	Docket No.	Description
26	1/28/2013	34266	Notice of Hearing on the Claim Objection filed by LBHI, with hearing to be held on 1/30/2013
27	1/31/2013	34373	Notice of Adjournment of Hearing of Matters Scheduled for Claims Hearing on January 30, 2013 at 10:00 a.m. filed by LBHI, with hearing to be held on 2/13/2013
28	2/14/2013	34990	Transcript regarding Hearing Held on 2/13/2013

STATEMENT OF ISSUES ON APPEAL

1. Whether the Bankruptcy Court erred by sustaining the Claim Objection with respect to the Claim.
2. Whether the Bankruptcy Court erred by finding that the CF Fund's delay in filing the Claim was not the result of excusable neglect.
3. Whether the Bankruptcy Court erred by finding that the Claim had not "been allowed" within the meaning of 11 U.S.C. § 502(j) as a result of the Claim Procedures Order and the CF Fund's non-opposition to the Claim Notice.
4. Whether the Bankruptcy Court erred by reconsidering allowance of the Claim (i) with no showing of "cause" as required by 11 U.S.C. § 502(j), and (ii) outside the time limits permitted by Fed. R. Civ. P. 60, made applicable by Fed. R. Bankr. P. 9024.
5. Whether the Bankruptcy Court erred by construing the "reservation of rights" provision in the Claim Procedures Order in a manner that (i) abrogated 11 U.S.C. § 502(j) and Fed. R. Civ. P. 60, and (ii) contradicted the Bankruptcy Court-approved Claim Notice, which contained no such "reservation" and, in fact, stated that if the CF Fund did not dispute the proposed allowed amount of the Claim, it did not need to file a written response to the Claim

Notice, and the Claim “will be allowed in such amount for purposes of voting and distributions under the Plan.”

6. Whether the Bankruptcy Court erred by finding that the “reservation of rights” provision in the Claim Procedures Order was enforceable against the CF Fund even though it had not been served with the Claim Procedures Motion or the Claim Procedures Order.

7. Whether the Bankruptcy Court erred by holding that the unique circumstances of the LBHI bankruptcy case justifies deviation from otherwise applicable procedural rules.

Dated: March 11, 2013

CF MIDAS BALANCED GROWTH FUND

By its Counsel

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By:

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